

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO.: 5:05CV253-V**

R.J. Reynolds Tobacco Company, )  
Plaintiff, )  
                        )  
                        )  
vs.                 )  
                        )  
Market Basket Food Stores, Inc., )  
et al.,              )  
                        )  
Defendants.         )  
                        )

**O R D E R**  
**Staying Discovery Pending**  
**Decision On Dispositive Motions**

**THIS MATTER** is before the Court on Motions To Stay Discovery filed by Defendants Daniel Blackburn, Appalachian Oil Company, Inc., Jeffrey Benedict (collectively, “Appco Defendants”), Dave’s Distributing, and Dave Ritchie (“Dave’s Distributing Defendants”). (Documents #168, #169, #171 and #172) R. J. Reynolds Tobacco Company (“RJR”) opposes Defendants’ motions to stay discovery temporarily. (Document #177)

Both of these defendant groups move for dismissal of certain causes of action (as the causes of action relate to the respective defendants), if not the entire Verified Complaint. There are additional defendants who seek similar relief under FED. R. CIV. P. 12(b) that do not seek a stay of discovery. For purposes of a discovery plan, however, it appears to be the consensus of all of the Defendants that issuance of a pretrial case management and scheduling order is premature pending the Court’s determination of the pending dispositive motions. (Document #170) The undersigned agrees.

For the reasons stated in Defendants' filings, and upon review of the parties' Joint Certification and Report of Initial Discovery Conference ("IAC"), the Court, in its discretion, will impose a stay of discovery pending a ruling resolving the Rule 12(b) motions.<sup>1</sup>

**IT IS HEREBY ORDERED** that Defendants' Motions To Stay Discovery pending the Court's ruling on dispositive motions is **GRANTED**. Accordingly, the parties will have ten (10) days following issuance of the Court's ruling(s) to either resubmit a new IAC or update the existing IAC.

**IT IS FURTHER ORDERED** that a temporary stay of discovery is warranted as to **ALL** Defendants who have a motion pursuant to FED R. CIV. P. 12(b) pending before this Court, regardless of whether Defendants request this relief or not.

Signed: February 8, 2006



Richard L. Voorhees  
Chief United States District Judge



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<sup>1</sup> This Order is consistent with the regular practice of this Court.